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Journal

Political Science Quarterly, 122(4)

ISSN

0032-3195

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Publication Date

2007

DOI

10.1002/j.1538-165X.2007.tb00612.x

Peer reviewed

Interest Groups, Lobbying, and Deception: The Tobacco Industry and Airline Smoking

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The provision of specialized information is widely viewed as one of the most important functions of interest groups.¹ Most research on interest group behavior presumes that lobbyists rarely misrepresent evidence, due to the risk of exposure and the need to work repeatedly with policymakers.²

¹ John M. Hansen, *Gaining Access: Congress and the Farm Lobby* (Chicago, IL: University of Chicago Press, 1991); Lester W. Milbrath, *The Washington Lobbyists* (Chicago, IL: Rand McNally, 1963); Kay L. Schlozman and John T. Tierney, *Organized Interests and American Democracy* (New York: Harper and Row, 1986); David B. Truman, *The Governmental Process: Political Interests and Public Opinion* (New York: Knopf, 1951); Jeffrey M. Berry, *The Interest Group Society* (Boston, MA: Little Brown, 1989); John R. Wright, *Interest Groups and Congress: Lobbying, Contributions, and Influence, New topics in Politics Series* (Boston: Allyn & Bacon, 1996); Kevin M. Esterling, *The Political Economy of Expertise: Information and Efficiency in American National Politics* (Ann Arbor: University of Michigan Press, 2004).

² Berry, *Interest Group Society*; Schlozman and Tierney, *Organized Interests and American Democracy*; Ronald J. Hrebenar, "Change, Transition and Growth in Southern Interest Group Politics" in Ronald J. Hrebenar and Clive S. Thomas, eds., *Interest Group Politics in the Southern States* (Tuscaloosa: University of Alabama Press, 1992); Marie Hojnacki and David M. Kimball, "Organized Interests and the Decision of Whom to Lobby in Congress," *American Political Science Review* 92 (December 1998): 775–790; Ken Kollman, *Outside Lobbying: Public Opinion and Interest*

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Instead, interest groups are viewed as “information service bureaus” for policymakers, or an extension of research staff.³ Researchers on lobbying behavior argue that having a reputation for providing accurate information is critical for individual lobbyists,⁴ that their career incentives help maintain their honesty, and that policymakers compensate for attempts to deceive them.⁵

The fact that information provided by interest groups can help shape policy, however, raises the possibility that an interest group may be tempted to mislead policymakers when the information it possesses does not support the group’s underlying policy preferences.⁶ Interest groups have occasionally attempted to sway the balance in their favor by misrepresenting evidence to legislators, particularly regarding constituent preferences, although it is often unclear whether these efforts were intentional or unintentional.⁷

When and to what extent interest groups willfully attempt to mislead legislators remains an open empirical question,⁸ in large part because methods of determining their intentions and the extent of the information that they possess at any given time are limited. Moreover, the vast majority of litera-

Group Strategies (Princeton, NJ: Princeton University Press, 1998); Alan Rosenthal, *The Third House: Lobbyists and Lobbying in the States* (Washington DC: CQ Press, 2001); David Whiteman, *Communication in Congress: Members, Staff, and the Search for Information* (Lawrence: University Press of Kansas, 1995).

³ Raymond A. Bauer, Ithiel de Sola Pool, and Lewis A. Dexter, *American Business and Public Policy* (New York: Atherton, 1963), 353; Hedrick Smith, *The Power Game: How Washington Works* (New York: Ballantine Books, 1988), 234; Whiteman, *Communication in Congress*, 45.

⁴ Lewis A. Dexter, *How Organizations Are Represented in Washington* (Indianapolis, IN: Bobbs-Merrill, 1969); Berry, *Interest Group Society*, 119; Jan Potters and Frans Van Winden, “Lobbying and Asymmetric Information,” *Public Choice* 74 (October 1992): 269–292; Schlozman and Tierney, *Organized Interests and American Democracy*, 103.

⁵ Carol A. Bodensteiner, “Special Interest Group Coalitions: Ethical Standards for Broad-Based Support Efforts,” *Public Relations Review* 23 (Spring 1997): 31–46; Randall L. Calvert, “The Value of Biased Information: A Rational Choice Model of Political Advice,” *The Journal of Politics* 47 (June 1985): 530–555; Susanne Lohmann, “A Signaling Model of Informative and Manipulative Political Action,” *American Political Science Review* 87 (June 1993): 319–333.

⁶ Gary S. Becker, “A Theory of Competition Among Pressure Groups for Political Influence,” *The Quarterly Journal of Economics* 98 (August 1983): 371–400; Thomas P. Lyon and John W. Maxwell, “Astroturf: Interest Group Lobbying and Corporate Strategy,” *Journal of Economics and Management Strategy* 13 (Winter 2004): 561–597; Potters and Van Winden, “Lobbying and Asymmetric Information,” 270; Samantha Sanchez, “How the West Is Won: Astroturf Lobbying and the ‘Wise Use’ Movement,” *The American Prospect* 25 (March–April 1996): 37–42; Wright, *Interest Groups and Congress*, 106.

⁷ Scott Ainsworth, “Regulating Lobbyists and Interest Group Influence,” *The Journal of Politics* 55 (February 1993): 41–56; E.E. Schattschneider, *Politics, Pressures, and the Tariff* (Englewood Cliffs, NJ: Prentice-Hall, 1935), 274; Bodensteiner, “Special Interest Group Coalitions,” 32; Lyon and Maxwell, “Astroturf,” 563–564; Sanchez, “How the West Is Won,” 41; Karl Schfriftgiesser, *The Lobbyists: The Art and Business of Influencing Lawmakers* (Boston, MA: Little Brown, 1951), 71.

⁸ Potters and Van Winden, “Lobbying and Asymmetric Information,” 271; Wright, *Interest Groups and Congress*, 113.

ture on interest group incentives relies on game theory rather than on empirical observations. In a few instances, however, firms have been required to release internal records in conjunction with legal settlements. Our research uses the most complete and publicly accessible of these records, tobacco industry documents released as part of civil actions on smoking and health, to review the history of airline smoking bans in the United States. The availability of these internal records offers an unprecedented opportunity to closely examine the inner workings of an economically and politically powerful interest group in its efforts to influence policymaking.⁹ With these documents, we are better able to understand the role of tobacco industry interest groups in the policy process that led to the first federal restrictions of public smoking, which, we suggest, provides an excellent case study of interest groups as information providers.

This case study challenges key theoretical assumptions about interest group lobbying. We propose that under certain circumstances, interest groups, particularly firms, may present inaccurate information to policymakers about public opinion despite the threat of exposure and the loss of credibility in the long term. The expectation that firms may misrepresent evidence is consistent with the very limited research regarding corporate lobbying, even though most literature claims that it is unlikely that interest groups will attempt to deceive policymakers.¹⁰ Moreover, any loss of credibility, if discovered, may not necessarily compromise future political success. Although the tobacco industry considers itself embattled, it has continued to be effective in preventing the passage of legislation and regulation aimed at restricting the use of its products. Our findings suggest that prevailing assumptions about the validity of information provided by interest groups, especially firms, should be reconsidered and that the current provisions of the 1995 Lobbying Disclosure Act do not protect against interest group efforts to misrepresent constituent preferences.

EXPECTATIONS ABOUT INTEREST GROUP INCENTIVES AND BEHAVIOR

Early work by E.E. Schattschneider argued that interest groups regularly sought to misrepresent evidence and deceive policymakers about the extent of popular support for their goals.¹¹ Other research has posited that when the political stakes are high, groups are more likely to attempt such deception.¹² Even research that claims that groups have an incentive to misrepresent

⁹ Lisa Bero, "Implications of the Tobacco Industry Documents for Public Health and Policy," *Annual Review of Public Health* 24 (January 2003): 267–288.

¹⁰ Becker, "Theory of Competition," 393–394; Lyon and Maxwell, "Astroturf," 562.

¹¹ E.E. Schattschneider, *Party Government* (New York: Holt, Rinehart and Winston, 1942), 199.

¹² Lohmann, "Signaling Model," 321; Potters and Van Winden, "Lobbying and Asymmetric Information," 284; Wright, *Interest Groups and Congress*, 108.

information, however, does not anticipate that deception is possible under all circumstances.

Charles Lindblom and John Wright suggest that misrepresentation will be ineffective when there are interest groups lobbying on both sides of an issue, because the presentation of inconsistent information would reveal that one group was not being completely forthcoming.¹³ To preserve their credibility, rational interest groups should not attempt to deceive policymakers when there are competing groups arguing the same issue.

One of the most critical pieces of information provided by interest groups to legislators is the extent to which citizens in their districts support or oppose policy changes. The extent of grassroots mobilization, because it requires the same type of effort as electoral mobilization, is considered to be a key indicator of constituent preferences.¹⁴ These campaigns, however, are judged by their presumed spontaneity, and support or opposition solicited by organized interest groups is far less meaningful to policymakers.¹⁵

We propose that interest groups will seek to deceive policymakers, despite the risk of exposure, when the stakes are high¹⁶ and when accurate information does not support their policy goals. Typically, businesses prefer not to become involved in politics,¹⁷ but when regulation becomes threatening to profits, firms will make efforts to influence policy. We propose that the decision to mislead is contextual, and that two conditions have to be met: the issue is critical, and the group fears that it is losing. This theoretical modification provides guidance about when and to what extent organizations may attempt to mislead policymakers.

DATA AND METHODS

Our case study reviews strategies and tactics used by the tobacco industry to influence the adoption of smoking restrictions on aircraft in the United States, beginning with the petition to ban smoking on commercial aircraft submitted to the Federal Aviation Administration by Ralph Nader in 1969, and continuing through the implementation of the smoking ban in 1990. The exact boundaries of the case study were established after preliminary analyses of tobacco industry documents during data collection. As suggested by Harry

¹³ Charles E. Lindblom, "The 'Science' of Muddling Through," *Public Administration Review* 19 (Spring 1959): 79–88; Wright, *Interest Groups and Congress*, 175.

¹⁴ Morris P. Fiorina, *Representatives, Roll Calls, and Constituencies* (Lexington, MA: D.C. Heath and Company, 1974); Wright, *Interest Groups and Congress*, 90; Bodensteiner, "Special Interest Group Coalitions," 32; Lohmann, "Signaling Model," 322; Potters and Van Winden, "Lobbying and Asymmetric Information," 285.

¹⁵ Wright, *Interest Groups and Congress*, 91.

¹⁶ Ibid., 108; Potters and Van Winden, "Lobbying and Asymmetric Information," 284.

¹⁷ Rosenthal, *Third House*.

Eckstein¹⁸ and John Gerring,¹⁹ we use this single case study to build on existing theory and to suggest parameters that predict when interest groups, particularly firms, may resort to deception.

We conducted a comprehensive search of the Legacy Tobacco Documents Library (<http://legacy.library.ucsf.edu>) and Tobacco Documents Online (<http://tobaccodocuments.org>) to identify internal records describing efforts to thwart the restriction of smoking on passenger aircraft. Search terms included broad keywords such as *airlines*, *aircraft*, *airplane*, and *cabin air* as well as the names of organizations, individuals, projects, files, Bates number ranges, and other specific terms identified through snowball searching. (Bates numbers are unique identifying numbers assigned by each producing party to each page of tobacco industry documents when the documents were produced in litigation.) Terms were deliberately wide-ranging and exhaustive to ensure saturation. Searches took place between August 2003 and June 2005. All terms used and their results were documented in an Excel spreadsheet. Searches were repeated periodically through the remainder of 2005 in order to retrieve any newly acquired records as well as to verify the reproducibility of our data collection methods. The industry documents comprised our primary data and included memoranda and correspondence, meeting minutes, proposals, reports, publications, presentations, budgets, newsletters, and press releases. We also included in our analysis documents produced by other organizations, copies of government records, and news clippings and transcripts identified in the tobacco industry's files if they provided evidence of industry strategies and tactics and/or the extent of their implementation.

In order to put the identified documents into their historical context as well as to corroborate the degree to which the tobacco industry actually implemented its plans, we supplemented our dataset with government records from relevant congressional hearings, debates, and publications identified by electronic searches of government websites (www.thomas.gov), LexisNexis, and university law library databases. We also compiled Federal Register notices, public commentary, hearings, and any meeting minutes from germane regulatory proceedings from the National Archives and Records Administration. Other means of triangulating our data collection included searches of the Internet using the search engine Google and social science, science, and news media databases to identify any related research and documentation, especially from flight attendant, aviation, and advocacy groups.

We identified several thousand pages of pertinent tobacco industry documents, public records, and related research and documentation. The majority

¹⁸ Harry Eckstein, "Case Study and Theory in Political Science" in Fred Greenstein and Nelson Polsby, eds., *Handbook of Political Science* (Reading, MA: Addison-Wesley Publishing Co., 1975), 94.

¹⁹ John Gerring, "What is a Case Study and What is it Good For?" *American Political Science Review* 98 (May 2004): 341–354.

of the industry documents came from the files of the Tobacco Institute (the tobacco industry's former lobbying and trade association), Philip Morris (now Altria), and RJ Reynolds. We narrowed our in-depth review and synthesis to approximately 150 documents that most comprehensively described tobacco industry efforts to misrepresent evidence about constituent preferences, excluding redundant materials, all of which are available for public review online through the University of California, San Francisco Legacy Tobacco Documents Library (<http://legacy.library.ucsf.edu>). Our interpretative data analysis involved iteratively reviewing the documents, categorizing the strategies and tactics, and summarizing results. Findings were organized both categorically and chronologically into four main areas: letter-writing campaigns, petition drives, public opinion surveys, and smokers' rights and other front groups.

AIRLINE SMOKING RESTRICTIONS BECOME A CRITICAL ISSUE FOR THE TOBACCO INDUSTRY

We posit that one of two conditions that will lead interest groups to attempt to deceive policymakers is the perception that the issue is critical to its survival. The tobacco industry developed its misrepresentation campaign after concluding that maintaining smoking on airlines was key to maintaining the social acceptability of smoking.²⁰ Reduction in the social acceptability of smoking was viewed by the industry as one of its greatest threats.²¹ The adoption of smoking restrictions on passenger aircraft represents the first and remains one of the few interventions by the federal government to protect nonsmokers from the harms of secondhand smoke. Table 1 provides an account of the evolution of the airline smoking policy process from the initial petitions to ban or segregate smokers through the implementation of the smoking ban on most domestic flights in 1990.

By the late 1970s, the tobacco industry felt that the assault on public smoking by anti-smoking forces was a serious problem.²² The critical importance of airline smoking restrictions was illustrated in a 1980 memo from James Bowling, Phillip Morris senior vice president, to Horace Kornegay, Tobacco Institute president.²³ In this correspondence, which was generated in response

²⁰ Anonymous. Philip Morris. 1988. *An Action Plan for ETS in Europe and Adjacent Areas, 1989-1992*. 10 Aug. Bates No. 2028364731/2028364743, accessed at <http://legacy.library.ucsf.edu/tid/hkh56e00>, 18 October 2004; James C. Bowling, [Memo to Horace Kornegay: Does this present an opportunity?] 31 Dec. 1980. Bates No. 2023258261, accessed at <http://legacy.library.ucsf.edu/tid/pur24e00>, 29 December 2004.

²¹ Stanton A. Glantz, John Slade, Lisa A. Bero, Peter Hanauer, and Deborah E. Barnes, *The Cigarette Papers* (Berkeley: University of California Press, 1996), 391; Bero, "Implications of the Tobacco Industry Documents."

²² William Kloepfer. 1984. *Winter Meeting Presentation TI Board*. Bates No. TI03150024/03150035, accessed at <http://legacy.library.ucsf.edu/tid/reu30c00>, 20 September 2004.

²³ Bowling.

TABLE 1
A Chronology of Airlines and Smoking 1969–1990

| | | |
|-----------|--|--|
| 1969 | | |
| December | Ralph Nader petitions the FAA and the CAB to ban smoking on airlines as annoying, unhealthy for nonsmokers, and as a fire danger. John Banzhaf and ASH file a petition with the FAA seeking separate smoking and nonsmoking sections aboard aircraft. | |
| 1973 | | |
| May | CAB requires domestic airlines to provide designated “no smoking” areas aboard aircraft for reasons of consumer comfort and protection effective 1 July 1973. | |
| 1976 | | |
| October | Responding to an ASH petition to ban cigar and pipe smoking, CAB initiates a rulemaking proceeding on a wide range of smoking issues. | |
| 1979 | | |
| January | CAB modifies the 1973 rules, requiring that airlines segregate cigar and pipe smokers; ban smoking when the ventilation system is not fully functioning; ensure that nonsmokers are not unreasonably burdened when a no-smoking section is sandwiched between two smoking sections; accommodate all persons who wish to be seated in nonsmoking areas; and take measures to enforce these rules. Docket 29044 is kept open for further comments. | |
| May | CAB invites comments on several proposals: ban smoking on flights of one hour or less; ban smoking on small aircraft; ban cigar and pipe smoking; provide special seating arrangements for passengers unusually susceptible to tobacco smoke; require partitions or buffer zones between smoking and nonsmoking sections; and permit a waiver procedure for airlines that wish to experiment with ways of segregating smokers and nonsmokers. | |
| 1981 | | |
| February | In a supplemental notice of proposed rulemaking to its 16 May 1979 notice, CAB requests commentary on two more options: a ban on all in-flight smoking or an elimination of the regulation of smoking on passenger aircraft. | |
| September | CAB concludes the rulemaking begun in 1976 by dropping the 1979 modifications to the smoking rule. It revises the rule by requiring airlines to guarantee a seat in the no smoking section to every nonsmoker who meets the airline’s designated check-in deadline. | |
| 1983 | | |
| September | CAB issues supplemental proposals to ban smoking on short flights (one or two hours) and to require additional special protections for those sensitive to smoke. | |
| 1984 | | |
| June | CAB adopts rules to ban smoking on small aircraft and to ban cigar and pipe smoking on all flights. | |
| 1987 | | |
| July | House passes (198-193) an amendment to the DOT appropriations bill banning smoking on flights of two hours or less. | |
| October | House Aviation Subcommittee hears testimony on smoking aboard airliners. Senate passes a compromise amendment to the DOT appropriations bill banning smoking on flights of 90 minutes or less for two years. | |
| December | The conference committee agrees to a compromise provision banning smoking on flights of two hours or less for two years and a \$2,000 fine for tampering with smoke detectors in airliner lavatories. | |
| 1988 | | |
| April | Smoking ban on flights of two hours or less goes into effect as per Public Law 100–202. | |
| 1989 | | |
| June | House Aviation Subcommittee hears testimony on smoking aboard airliners. | |
| July | House Aviation Subcommittee marks up the bill introduced by Chairman Jim Oberstar, modifying it to extend for two years the current two-hour ban. The bill is further amended in full committee to make the ban permanent. | |
| August | House passes an amendment to the transportation appropriations bill that would make the current ban of smoking on commercial flights of two hours or less permanent. | |

(Continued)

TABLE 1
Continued

| | |
|-----------|---|
| September | Senate adopts by voice vote the Lautenberg amendment to the transportation appropriations bill banning smoking on all domestic flights. |
| October | House–Senate conferees agree to ban smoking on all passenger flights within the continental United States and all flights to Alaska and Hawaii lasting less than six hours. |
| 1990 | |
| February | Smoking ban (Public Law 101–164) on most scheduled U.S. domestic flights goes into effect. |

ASH, Action on Smoking and Health; CAB, Civil Aeronautics Board; DOT, Department of Transportation; FAA, Federal Aviation Administration.

Sources: 38 Fed Reg 12207. “Chapter II. Civil Aeronautics Board. Chapter A. Economic Regulations [Regulation ER-800]. Part 252 Provision of Designated ‘No-Smoking’ Areas Aboard Aircraft Operated by Certificated Air Carriers.” (1973); 41 Fed Reg 44424. “Provision of Designated ‘No-Smoking’ Areas Aboard Aircraft Operated by Certificated Air Carriers. Proposed Rulemaking.” (1976); 44 Fed Reg 5075. Part 252 “Provision of Designated ‘No-Smoking’ Areas Aboard Aircraft Operated by Certificated Air Carriers. Amendment of Part. Final Rule.” (1979); 44 Fed Reg 29486. “Proposed Restrictions on Smoking Aboard Aircraft: Notice of Proposed Rulemaking.” (1979); 46 Fed Reg 11827. “Smoking Aboard Aircraft. Supplemental Notice of Proposed Rulemaking.” (1981); 46 Fed Reg 45934. “Smoking Aboard Aircraft.” (1981); 48 Fed Reg 43341. “Smoking Aboard Aircraft. Supplemental Notice of Proposed Rulemaking.” (1983); 49 Fed Reg 25408. “Smoking Aboard Aircraft.” (1984); “Petition for Promulgation of a Rule Requiring Separation of Smoking and Non-smoking Passengers on All Commercial Domestic Air Carriers.” (1969); *Department of Transportation and Related Agencies Appropriations Act of 1988*, 100th Cong., 1st sess., *Congressional Record* 133, no. 115 (1987): H 6167; *Department of Transportation and Related Agencies Appropriations Act of 1990*, 101st Cong., 1st sess., *Congressional Record* 135, no. 108 (1989): H 5005; *Department of Transportation and Related Agencies Appropriations Act of 1990* (1990): H 3015; *Department of Transportation Appropriations Act*, 100th Cong., 1st sess., *Congressional Record* 133, no. 171 (1987): S 15423; *Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988*, Public Law 100–102 (December 22, 1987): H 395; Edmund Preston. *FAA Historical Chronology Civil Aviation and the Federal Government 1926–1996* (Washington DC: Department of Transportation, Federal Aviation Administration, Office of Public Affairs, 1998); House Subcommittee on Aviation of the Committee on Public Works and Transportation, *To Ban Smoking on Airline Aircraft*, 100th Cong., 1st sess., 1987; House Subcommittee on Aviation of the Committee on Public Works and Transportation, *To Ban Smoking on Airline Aircraft*, 101st Cong., 1st sess., 1989.

to the 1981 Civil Aeronautics Board (CAB) request for comment on either a ban of all in-flight smoking or complete elimination of the smoker segregation rule, Bowling stated:

As you know, I believe that the successful efforts of the anti’s in getting the smoking/no-smoking rule established aboard aircraft was the single most effective thing in their effort to create and promote a social stigma to public smoking. If this presents an opportunity to turn that one around—I think we should do everything possible.

The industry was taken by surprise when in 1987, Representative Richard Durbin (D-IL) succeeded in passing a provision to appropriations legislation on the House floor to ban smoking on flights of two hours or less.²⁴ To

²⁴ Anonymous. 1988. *Smoking Aboard Airlines: A Strategic Plan*. 22 Apr. Bates No. TI07670374/07670398, accessed at <http://legacy.library.ucsf.edu/tid/www30c00>, 17 March 2005; *Department of Transportation and Related Agencies Appropriations Act of 1988*, 100th Cong., 1st sess., *Congressional Record* 133, no. 115 (1987): H 6167.

stop the legislation, the industry used direct one-on-one lobbying and grass-roots mobilization.²⁵ Efforts to demonstrate public opinion against a ban included the formation by the tobacco industry of the Committee for Airline Passengers' Rights.²⁶

Even before the temporary two-year smoking ban on flights of two hours or less went into effect in April 1988, the Tobacco Institute developed a 25-page action plan and an airline smoking program with a budget of over \$2.5 million to ensure that the law would expire.²⁷ The plan had three objectives:

To ensure that the two-hour ban sunsets as scheduled on April 22, 1990. To persuade congressional and DOT [Department of Transportation] decision makers that the issues to be confronted are cabin air quality and ventilation. To persuade congressional and DOT decision-makers and airlines that smokers expect to be accommodated and that all parties should fight for restoration of a more reasonable system.²⁸

By 1989, executives at the Tobacco Institute described airline smoking as the industry's "most persistent and intractable issue"²⁹ and one of the industry's "most difficult challenges in Congress."³⁰ Despite the engagement of an army of tobacco industry and third-party lobbyists³¹ and the help of influential allies in Congress, the industry was unable to stop the adoption of legislation permanently banning smoking on most domestic flights. Even before final passage of the ban, the Tobacco Institute acknowledged defeat by eliminating the airline smoking program from its 1990 budget proposal, aban-

²⁵ Anonymous. 1987. *Airline Smoking Presentation at Nordic NMA ETS Working Group Helsinki, December 10, 1987*. 9 Dec. Bates No. 2501330521/2501330536, accessed at <http://legacy.library.ucsf.edu/tid/cje32e00>, 10 March 2005.

²⁶ Peter G. Sparber. 1987. 15 Oct. Bates No. TI07670456, accessed at <http://legacy.library.ucsf.edu/tid/yvy30c00>, 10 March 2005.

²⁷ Peter G. Sparber. 1988. *Enclosed Attached Review Plan for Smoking Restrictions. Smoking Aboard Airlines: A Strategic Plan. Appendix A Thru E*. 25 Feb. Bates No. TI00450004/00450022, accessed at <http://legacy.library.ucsf.edu/tid/lum30c00>, 16 March 2005; Anonymous, *Smoking Aboard Airlines: A Strategic Plan*.

²⁸ Anonymous, *Smoking Aboard Airlines: A Strategic Plan*.

²⁹ John Lyons. Tobacco Institute. 1989. 16 Aug. Bates No. TI01140210/01140213, accessed at <http://legacy.library.ucsf.edu/tid/ybp30c00>, 13 April 2005.

³⁰ Samuel D. Chilcote. Tobacco Institute. 1989. 28 Sep. Bates No. 508088599/508088599, accessed at <http://legacy.library.ucsf.edu/tid/qls31d00>, 15 April 2005.

³¹ *Ibid.*, 8 Aug. Bates No. TNWL0034910, accessed at <http://legacy.library.ucsf.edu/tid/rmk07d00>, 13 April 2005; Daniel A. Najjar. 1989. 21 Aug. Bates No. 507641135/507641136, accessed at <http://legacy.library.ucsf.edu/tid/xbp61d00>, 13 April 2005; Daniel C. Nelson. 1989. *Federal Contacts—Airline Smoking Ban*. 29 Aug. Bates No. TI00441729/00441730, accessed at <http://legacy.library.ucsf.edu/tid/ivm30c00>, 13 April 2005; Walter Woodson. 1989. *Airline Contacts During Recess*. 8 Aug. Bates No. TI00442323, accessed at http://tobaccodocuments.org/nysa_indexed/TI00442323.html, 13 April 2005; Walter Woodson. 1989. *Airline Smoking Ban Contact Program*. 11 Aug. Bates No. TI00441284/00441288, accessed at http://tobaccodocuments.org/nysa_indexed/TI00441284.html, 13 April 2005.

doning efforts to generate favorable public opinion research, and withdrawing funding for the industry-sponsored group, the Smokers' Rights Alliance.³²

MISREPRESENTING CONSTITUENT PREFERENCES

Although the tobacco industry used a number of strategies to prevent passage of airline smoking restrictions, we focus on attempts to misrepresent constituent preferences, since this information can be critical in establishing legislative policy positions. The following sections describe the industry's internal discussion about its attempts to mischaracterize public support through letter-writing campaigns, petition drives, public opinion surveys, and smokers' rights and other front groups.

Letter-writing Campaigns

The tobacco industry attempted to hide its involvement in letter-writing campaigns throughout the airline smoking policy process. Letters were generated by the industry's own employees and related individuals and organizations (for example, the Tobacco Institute, tobacco companies and associations, wholesalers, distributors, advertisers, law firms, tobacco farmers and unions, and subsidiaries).³³ Figure 1 shows excerpts of examples of the various covert

³² Susan Stuntz. 1989. 21 Sep. Bates No. TI17681799/17681804, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI17681799.html, 14 September 2005; Tobacco Institute. 1989. *Public Affairs Management Plan Progress Report October 1989*. Oct. Bates No. TI09911505/09911542, accessed at <http://legacy.library.ucsf.edu/tid/rga40c00>, 15 April 2005.

³³ Coordinating Board of Tobacco. Jack Beaty. 1972. *The Civil Aeronautics Board Has Proposed a Ruling That Would Require All Airlines to Segregate Smokers from Other Passengers*. 4 Dec. Bates No. 518152656/518152657, accessed at <http://legacy.library.ucsf.edu/tid/zso61d00>, 9 November 2004; Jeb Lee. 1972. *Proposed CAB Ruling*. 27 Nov. Bates No. 1003057843/1003057844, accessed at <http://legacy.library.ucsf.edu/tid/mcw64e00>, 9 November 2004; John C.B. Ehringhaus. Tobacco Institute. 1976. *The Civil Aeronautics Board Has Formally Proposed to Outlaw Pipe and Cigar Smoking on Airlines—and Might Even Prohibit All Smoking During Flights*. 19 Oct. Bates No. 500002108, accessed at <http://legacy.library.ucsf.edu/tid/viu31d00>, 19 November 2004; Rene Rondou. Tobacco Workers International Union. 1976. *Copy of Letter Sent to CAB. Request to All U.S. TWIU Local Union Members to Send a Similar Letter on a Personal Basis*. 28 Oct. Bates No. TI04341735, accessed at <http://legacy.library.ucsf.edu/tid/bkv30c00>, 19 November 2004; Stanley S. Scott. Philip Morris. 1979. 9 Aug. Bates No. 2023022551/2023022552, accessed at <http://legacy.library.ucsf.edu/tid/acx36e00>, 21 December 2004; Alfred M. Pollard. Tobacco Institute. 1981. *Action Plan on CAB Regulations on Smoking*. 4 Mar. Bates No. TI36310091/36310096, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI36310091.html, 21 December 2004; Paul Serber. Tobacco Institute. 1983. 10 Aug. Bates No. TI12091337/12091346, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI12091337.html, 31 January 2005; Walter Woodson. 1987. *FET Airline Bans, State Efforts During the Recess*. 6 Aug. Bates No. TI09052656/09052665, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI09052656.html, 31 January 2005; David Laufer. Philip Morris. 1987. *Airline Smoking Ban Mobilizations*. 20 July. Bates No. TI09052542/09052547, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI09052542.html, 9 March 2005; Anonymous. 1989. *Airline Smoking Ban Response Cards Received*. Bates No.

FIGURE 1

Examples of Covert Letter-writing Requests from Tobacco Industry Documents

Lorillard Document, December 1972

Attached are five drafts of "letters" to the C.A.B. opposing the rule to require airlines to segregate smokers.

Could you get some of the agency people to write these -- by hand -- on non-company letterheads, using home addresses, and ask each one to get one or two more, similar, but not exactly the same.

Brown & Williamson Document, October 1976

If you decide to write, you should use your own words and you will be writing as a private individual. For that reason, you should not use company stationery nor state that you are connected with B&W.

Philip Morris Document, August 1983

IN PREPARING YOUR LETTER, PLEASE USE PLAIN PAPER OR PERSONAL LETTERHEAD AND A PLAIN ENVELOPE. DO NOT USE PHILIP MORRIS LETTERHEAD OR ENVELOPES.

Tobacco Action Network, May 1980

Because you are expressing your own views, your letter should be on your personal stationery or plain paper bearing your home address -- not on business letterhead or with your business address!!

Committee for Airline Passengers Rights (tobacco industry front group), Nov. 1987

WHAT CAN YOU DO? Join with other concerned New Jersey citizens on the Committee for Airline Passengers' Rights and let Senator Lautenberg know how you feel about the smoking ban. Exercise your rights as a citizen and write to Senator Lautenberg TODAY.

The Honorable Frank R. Lautenberg
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

When you write, put one of the Airline Passengers' Rights stickers on the letter and envelope. Senator Lautenberg will know there is a strong group of New Jerseyans who disagree with his views on tobacco issues.

Sources: James C. Bowling. Philip Morris. 1983. 9 Aug. Bates No. 2500165602/2500165603. <http://legacy.library.ucsf.edu/tid/cfi22d00>. J. A. Broughton. 1976. 25 Oct. Bates No. 680086604. <http://legacy.library.ucsf.edu/tid/rbw04f00>. Committee for Airline Passengers Rights. 1987. *No on Airline Smoking Bans Fact Sheet*. 20 Nov. Bates No. T11153154/11153156. <http://legacy.library.ucsf.edu/tid/ulh40c00>. Arthur J. Stevens. 1972. 13 Nov. Bates No. 2025015096. <http://legacy.library.ucsf.edu/tid/raa56e00>. Tobacco Action Network. Tobacco Institute. 1980. *CAB Action Request*. 22 May. Bates No. T121441332/21441334. http://tobaccodocuments.org/nysa_ti_m1/T121441332.html.

letter-writing requests found in the tobacco industry's files, from the first proceeding to establish smoking sections in 1972 through the congressional adoption of a smoking ban in 1987. Requests repeatedly indicated that any association with the tobacco industry be hidden. The industry was also aware that the correspondence needed to be sufficiently varied to "avoid the appearance of a tightly organized campaign."³⁴

The industry's efforts to conceal its involvement were not always successful. At least one tobacco company letter drive was uncovered and reported in the major press during the CAB's first rulemaking in 1972.³⁵ Despite the industry's letter-writing efforts in this case, most of the 4,500 letters received by the agency were in favor of the proposed rule (no further breakdown provided).³⁶

The tobacco industry continued to solicit letters in response to each attempt to tighten the smoking rules on aircraft. Important to the industry's future successes at producing favorable comment was the formation of the Tobacco Action Network (TAN) by the Tobacco Institute in 1977. Coordinated through the Tobacco Institute's state activities division and consisting predominantly of tobacco-related individuals,³⁷ TAN enrollees were first mobilized to write letters in opposition to further regulations proposed by the CAB in 1979.³⁸ The TAN response to the proceeding was applauded by the industry in one of the organization's monthly newsletters:

Although letters to the CAB were running as high as 50 to 1 against the smokers at the beginning of the Campaign, the final tally, after the August 20 deadline, showed a ratio of 2 to 1 against further restrictions.³⁹

TI00441716/00441725, accessed at <http://legacy.library.ucsf.edu/tid/mvm30c00>, 13 April 2005; Tobacco Institute. 1988. *Public Affairs Management Plan Progress Report*. Aug. Bates No. TIDN0018350/0018388, accessed at <http://legacy.library.ucsf.edu/tid/fyh91f00>, 17 March 2005.

³⁴ Dennis Durden. 1976. *Here's My Draft of What I'd Suggest Bill Hobbs Send*. 3 Nov. Bates No. 500799117/500799118, accessed at <http://legacy.library.ucsf.edu/tid/xzf35a00>, 19 November 2004.

³⁵ Jack Anderson. United Feature Syndicate and *The Washington Post*. 1973. *Lorillard Inspires Pro-smoking Mail*. 19 Jan. Bates No. 03742088/03742089, accessed at <http://legacy.library.ucsf.edu/tid/chx61e00>, 9 November 2004; Jack Anderson. *Miami Herald*. 1973. *Ghosting for Lorillard. Pro-smoking Letters "Inspired"*. 19 Jan. Bates No. 503682687/503682687, accessed at <http://legacy.library.ucsf.edu/tid/vst31d00>, 9 November 2004.

³⁶ 38 Fed Reg 12207, "Chapter II. Civil Aeronautics Board. Chapter A. Economic Regulations [Regulation ER-800]. Part 252 Provision of Designated "No-Smoking" Areas Aboard Aircraft Operated by Certificated Air Carriers." (1973).

³⁷ Organization Resources Counselors, Inc. 1981. *The Tobacco Institute. A Study of the Tobacco Action Network*. Mar. Bates No. 03673008/03673077, accessed at <http://legacy.library.ucsf.edu/tid/oyf71e00>, 17 May 2005.

³⁸ TAN. Tobacco Action Network. 1979. *TAN National UPDATE*. Jun. Bates No. TIFL0063746/0063751, accessed at <http://legacy.library.ucsf.edu/tid/qsq02f00>, 21 December 2004.

³⁹ TAN. Tobacco Action Network. 1979. *TAN National UPDATE, Volume 1, Number 2 CAB Campaign Called Success*. Nov. Bates No. TI22620786/22620791, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI22620786.html, 21 December 2004.

Monitoring of letter counts in the CAB docket by the tobacco industry in subsequent proceedings showed that before the initiation of industry-driven letter-writing campaigns, there was overwhelming support of the agency's proposals for further restrictions. One surveillance report from July 1983 stated:

While at C.A.B., I reviewed some of the 800 pieces received in response to D. 41431. All but one letter was in favor of imposing restrictions on smoking.⁴⁰

Further follow-up of the docket contents demonstrated the industry's overwhelming success in generating comments favorable to its position. Tobacco Institute correspondence from September 1983 indicated that the CAB received a total of 3,700 letters, with 1,700 against further restrictions.⁴¹ By November, the letters ran 64 percent against the proposed regulations.⁴² However, the industry sought to make the letter count match the results of its recently released public opinion survey, which claimed that approximately 80 percent of the public supported its position (discussed below).⁴³ A November 1983 memo from William Kloepfer, Tobacco Institute senior vice president, to its staff declared:

But this is *not* enough. As we measured public opinion, it's 80-20 against. The docket ratio should be the same and *that* is our goal."⁴⁴

The Institute nearly reached its objective. Of the approximately 20,000 individual letters submitted to CAB, 14,399 (72 percent) opposed any further restrictions on smoking while 5,457 (27 percent) favored further restrictions.⁴⁵

The industry continued its mobilization efforts and boasted of success in generating letters, mailgrams, and phone calls to key legislators, the DOT, and airline executives when the airline smoking issue emerged in Congress.⁴⁶ Despite its efforts to conceal its involvement, members of Congress

⁴⁰ Adele Abrams. 1983. *C.A.B. Action on Docket #29044 Public Response to D. 41431*. 27 Jul. Bates No. TI12470636/12470638, accessed at <http://legacy.library.ucsf.edu/tid/dtm40c00>, 25 January 2005.

⁴¹ J. Kendrick Wells. 1983. 22 Sep. Bates No. 680011631/680011634, accessed at <http://legacy.library.ucsf.edu/tid/ayc24f00>, 25 January 2005.

⁴² William Kloepfer. 1983. *Civil Aeronautics Board: Update*. 4 Nov. Bates No. 690148318/690148331, accessed at <http://legacy.library.ucsf.edu/tid/yhq93f00>, 1 February 2005.

⁴³ Tarrance & Associates. 1983. *Airline Smoking Study. A Report Prepared for the Tobacco Institute*. Sep. Bates No. TI10581643/10581654, accessed at <http://legacy.library.ucsf.edu/tid/mug40c00>, 21 April 2005.

⁴⁴ Kloepfer. *Civil Aeronautics Board: Update* (emphasis in original).

⁴⁵ Gregory R. Scott. Philip Morris. 1984. *February 14-15 CAB Oral Argument Proceedings on Proposed Revisions to Smoking Rules*. 15 Feb. Bates No. 2047363245/2047363251, accessed at <http://legacy.library.ucsf.edu/tid/prz62e00>, 3 February 2005; 49 Fed Reg 25408, "Smoking Aboard Aircraft" (1984).

⁴⁶ Anonymous, *Smoking Aboard Airlines: A Strategic Plan*; Laufer. *Airline Smoking Ban Mobilizations*; Walter V. Robinson. *Boston Globe*. 1987. *Smoky Flight Gave Him a Clear Purpose*. 24 Dec. Bates No. TITX0034759, accessed at <http://legacy.library.ucsf.edu/tid/ouw32f00>, 10 March 2005; Woodson. *FET Airline Bans, State Efforts*; Anonymous. 1988. *Lyons' Report to the Communications Committee on the Status of Airline Smoking Matters*. Bates No. TIMN0014765/0014770, accessed

were aware that the flood of communications had been generated by the tobacco lobby.⁴⁷

Petition Drives

To offset letters to the CAB supporting smoking restrictions on aircraft, the tobacco industry developed a plan to obtain support from airline travelers.⁴⁸ The Tobacco Institute and Philip Morris hired Donnelley Marketing to conduct a nationwide airport petition drive in response to the CAB's first attempt to strengthen its smoking rule in 1976.⁴⁹ At a cost of approximately \$190,000,⁵⁰ about 133,000 signatures were obtained and submitted by the Tobacco Institute, along with its supplemental comments, to the CAB.⁵¹ Despite difficulties in obtaining access to several major airports, the industry claimed its petition drive was a success.⁵² At a press conference, president Kornegay stated:

This dramatic response of airline passengers to the petition drive belies the suggestion ... that a substantial proportion of ordinary airline passengers support further restriction on smoking.⁵³

Kornegay did not reveal that the petitions were supplemented with signatures from within the tobacco industry and its subsidiaries.⁵⁴ He noted in an

at <http://legacy.library.ucsf.edu/tid/tio03f00>, 15 March 2005; Anonymous. *Airline Smoking Ban Response Cards Received*; Tobacco Institute. *Public Affairs Management Plan Progress Report*.

⁴⁷ House Subcommittee on Aviation of the Committee on Public Works and Transportation, *To Ban Smoking on Airline Aircraft*, 100th Cong., 1st sess., 1987. W.V. Robinson. *Boston Globe*. 1989. *Tobacco Lobby Pervades Congress Article # 2*. 24 Sep. Bates No. TI30819602/30819606, accessed at <http://legacy.library.ucsf.edu/tid/tlp76d00>, 4 October 2004.

⁴⁸ James S. Dowdell. 1977. *CAB/EAL*. 18 Aug. Bates No. 500002012/500002014, accessed at <http://legacy.library.ucsf.edu/tid/lij99d00>, 21 December 2004.

⁴⁹ Edward A. Grefe. Philip Morris. 1976. 14 Dec. Bates No. 2025014956/2025014959, accessed at <http://legacy.library.ucsf.edu/tid/joa81f00>, 19 November 2004; Edward A. Grefe. Philip Morris. 1976. *Preliminary Test Results of Petition Drive*. 31 Dec. Bates No. 2024989082/2024989084, accessed at <http://legacy.library.ucsf.edu/tid/zjy46e00>, 30 November 2004.

⁵⁰ Grefe. *Preliminary Test Results of Petition Drive*.

⁵¹ CAB and Associate General Counsel of the Civil Aeronautics Board (CAB), Memorandum: Summary of comments on EDR-306, Notice of Proposed Rulemaking with respect to Part 252, "Provision of Designated 'No-Smoking' Areas Aboard Aircraft Operated by Certificated Air Carriers." Docket 29044. From the National Archives and Records Administration. April 20. See also <http://legacy.library.ucsf.edu/tid/frg24e00> 1977.

⁵² Tobacco Institute. 1977. Press release. 21 Jan. Bates No. TIMN0120658/0120659, accessed at <http://legacy.library.ucsf.edu/tid/fwg92f00>, 30 November 2004; Horace R. Kornegay. 1977. *CAB Petition Canvass Results*. 21 Jan. Bates No. 2024989052/2024989056, accessed at <http://legacy.library.ucsf.edu/tid/krg24e00>, 30 November 2004.

⁵³ Tobacco Institute. Press release.

⁵⁴ Horace R. Kornegay. 1977. 14 Jan. Bates No. 03741908, accessed at <http://legacy.library.ucsf.edu/tid/jfx61e00>, 30 November 2004; William D. Hobbs. 1977. 19 Jan. Bates No. 505197537/505197537, accessed at <http://legacy.library.ucsf.edu/tid/jvt25d00>, 30 November 2004.

internal memo that it was essential that any petitions circulated amongst employees be delivered to the CAB within a time frame that would “insure [sic] that the integrity of the *signatures obtained at the airports* is maintained.”⁵⁵ Using a short time frame allowed the industry to present its petitions as being signed exclusively by airline passengers. The CAB docket also contained evidence that some signatures may have been falsified.⁵⁶

The Tobacco Institute conducted a second nationwide airport petition drive in 1983 in response to the CAB’s proposals to ban smoking on small aircraft and short flights.⁵⁷ The Tobacco Institute filed more than 180,000 signatures with the CAB⁵⁸ and again did not disclose that the petitions had also been distributed among tobacco industry employees.⁵⁹ One industry document revealed that the Philip Morris sales division had collected more than 50,000 of the signatures.⁶⁰ Private citizens also filed complaints about petition gatherers who did not always disclose tobacco industry sponsorship or the nature of the petition.⁶¹ We found no evidence of any response to these complaints.

Public Opinion Surveys

The tobacco industry conducted a series of public opinion surveys on airline smoking restrictions and selectively publicized only findings that supported its position. The first opinion poll was conducted in 1983 for the Tobacco Institute by Tarrance and Associates.⁶² The telephone survey found that 83 percent of 1,000 U.S. air travelers felt that the arrangement of separate seating for smokers and nonsmokers “works pretty well in making all passengers com-

⁵⁵ Kornegay (emphasis in original).

⁵⁶ Lawrence Aves, Letter to Iowa Congressman Charles Grassley regarding falsified petition signature. Correspondence file. Docket #29044, National Archives and Records Administration, 28 April 1977.

⁵⁷ Anonymous. 1983. *The C.A.B. Proposal: A Program Concept*. 18 Sep. Bates No. 2024078565/2024078570, accessed at <http://legacy.library.ucsf.edu/tid/afr14e00>, 25 January 2005; William Kloepfer. Tobacco Institute. 1983. *Response to CAB’s Smoking Rule Proposals*. 30 Sep. Bates No. 01344941/01344943, accessed at <http://legacy.library.ucsf.edu/tid/xww81e00>, 26 January 2005.

⁵⁸ Tobacco Institute and Horace R. Kornegay, Reply Comments of the Tobacco Institute to the Civil Aeronautics Board. Docket No. 41431 EDR-461 and EDR-461B, 27 Dec. 1983.

⁵⁹ Stan Boman. Tobacco Institute. 1983. 3 Nov. Bates No. TIOK0029627, accessed at <http://legacy.library.ucsf.edu/tid/jau91f00>, 1 February 2005; Bill Toohey. Tobacco Institute. 1983. *Merryman PUBSAT Interview on CAB Situation*. 11 Nov. Bates No. TI12302213/12302221, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI12302213.html, 1 February 2005; Charles G. Hord. 1983. *Civil Aeronautics Board*. 4 Nov. Bates No. TNWL0029111, accessed at <http://legacy.library.ucsf.edu/tid/hzn07d00>, 1 February 2005.

⁶⁰ Anonymous. 1984. *Civil Aeronautics Board*. Nov. Bates No. 2025434656/2025434658, accessed at <http://legacy.library.ucsf.edu/tid/swr25e00>, 2 February 2005.

⁶¹ Marc Matre. 1983. *CAB-Smoking Rulemaking*. 23 Nov. Bates No. TI00451699/00451703, accessed at http://tobaccodocuments.org/nysa_indexed/TI00451699.html, 2 February 2005; B.G. Hall, *CAB-Smoking Rulemaking* (Washington DC: National Archives and Records Administration. Docket No. 41431, 1983).

⁶² Tarrance & Associates. *Airline Smoking Study*.

fortable.” The industry did not disclose, however, the results of its pilot study (300 respondents).⁶³ A September 1983 memorandum from Kloefer to the Institute’s president disclosed these preliminary findings and stated:

On our pilot survey of airline passengers, we do *not* have reassuring results. While the great majority feel that present arrangements are OK, their number diminishes the moment they are told of possible new regulations. We came out 50% for and 38% against the prohibition of smoking on planes with fewer than 60 seats. We came out 46-47 on the two hours or less prohibition.⁶⁴

Specific questions on proposed regulations or legislation as used in the pilot survey do not appear in the full study or in any subsequent publicly disclosed surveys sponsored by the industry. Furthermore, the 1983 final report falsely stated in its overview that “the Tobacco Institute was unaware of any significant public demand from air travelers to change the present arrangement.”⁶⁵ When the Tobacco Institute repeated the survey in 1985, it found that 82 percent indicated that they approved the current arrangement of segregating smokers and nonsmokers (1,000 respondents).⁶⁶ Data from these polls were used repeatedly in public commentary and hearing testimony to argue that there was no public support for further restricting smoking on aircraft.⁶⁷ Philip Morris also studied air travelers’ attitudes toward smoking restrictions and found results consistent with the Tobacco Institute’s pilot study. The unpublicized survey showed that 55 percent of 101 nonsmokers and 13 percent of 99 smokers strongly approved of a smoking ban on all airplane flights.⁶⁸

In 1987, the Tobacco Institute worked with the airline pilots association to survey passenger attitudes on airline issues including smoking.⁶⁹ In this survey, 87 percent indicated that the “practice of separating smoking and nonsmoking passengers is a reasonable policy that respects the rights of each” (1,000 respondents). The Tobacco Institute claimed not to have been involved

⁶³ William Kloefer. 1983. 6 Sep. Bates No. TI12302457/12302461, accessed at http://tobacco documents.org/nysa_ti_m1/TI12302457.html, 21 April 2005; Richard E. Ryan. Tarrance & Associates. 1983. 29 Aug. Bates No. TI12302453/12302456, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI12302453.html, 21 April 2005; Wells.

⁶⁴ Kloefer (emphasis in original).

⁶⁵ Tarrance & Associates. *Airline Smoking Study*.

⁶⁶ Tarrance & Associates. 1985. *1985 Airline Smoking Study Prepared for the Tobacco Institute*. Apr. Bates No. 85672258/85672296, accessed at <http://legacy.library.ucsf.edu/tid/tzl31e00>, 21 April 2005.

⁶⁷ Tobacco Institute and Horace R. Kornegay, Comments of the Tobacco Institute on Proposed Amendments to Regulations Governing Smoking Aboard Commercial Aircraft. Submitted to the Civil Aeronautics Board. Docket No. 41431 EDR-461 and EDR 461B, 7 Nov 1983; Tobacco Institute and Kornegay, Reply Comments of the Tobacco Institute; *To Ban Smoking on Airline Aircraft*.

⁶⁸ Cheryl L. McKay. Philip Morris. 1985. *Sidestream Smoke Attitude Survey*. 15 May. Bates No. 2021568757/2021568789, accessed at <http://legacy.library.ucsf.edu/tid/tmb68e00>, 21 April 2005.

⁶⁹ Anonymous. 1989. *Fact: Airline Passengers Were Satisfied with the System of Providing Separate Sections for Smokers and Nonsmokers*. Bates No. TI04091620, accessed at <http://legacy.library.ucsf.edu/tid/ttu30c00>, 25 April 2005.

with this research in its testimony to Congress.⁷⁰ Internal documents show, however, that the Tobacco Institute paid for the study and developed the questionnaire with the airline pilots association.⁷¹

Three other public opinion polls conducted in 1987, independent of the tobacco industry, showed broad support for airline smoking bans. At the 1987 House Aviation Subcommittee hearing on airline smoking, a representative of the International Foundation of Airline Passenger Associations presented data from its worldwide survey of passengers' attitudes toward smoking on aircraft.⁷² The study found that 60 percent of all U.S. passengers supported a smoking ban on flights up to two hours and that 48 percent favored a ban on all flights (7,200 respondents).⁷³ Only 17 percent indicated that they preferred dividing the aircraft cabin between smokers and nonsmokers. A survey sponsored by the American Medical Association showed that 67 percent of its 1,500 study participants indicated that smoking should not be allowed on aircraft.⁷⁴ The American Association of Respiratory Care (AARC) conducted a study among over 33,000 airline passengers and found that 64 percent favored a smoking ban on all flights.⁷⁵

A second AARC poll conducted in 1989 found that 84 percent approved the ban on flights of two hours or less and 67 percent indicated that the ban should be extended to all flights (27,667 respondents).⁷⁶ In a press release, the Tobacco Institute claimed that this study was flawed and stated that the "AARC 'findings' are not consistent with other more reliable measures of public opinion."⁷⁷ The AARC responded to the claims by challenging the Institute to work cooperatively to conduct another poll. The offer was declined.⁷⁸

⁷⁰ *To Ban Smoking on Airline Aircraft*.

⁷¹ William Kloefer. 1987. *Action on Airline Smoking Ban*. 30 Dec. Bates No. TI07670542/07670544, accessed at <http://legacy.library.ucsf.edu/tid/svy30c00>, 10 March 2005; Susan Stuntz. 1987. *Issues for Discussion with Wendell Ford*. 12 Mar. Bates No. TI07670552/07670553, accessed at <http://legacy.library.ucsf.edu/tid/mvy30c00>, 28 February 2005.

⁷² *To Ban Smoking on Airline Aircraft*; Geoffrey Lipman. International Foundation of Airline Passengers Associations (IFAPA). 1987. *Comments of the International Foundation of Airline Passengers Associations before the Subcommittee on Aviation of the Committee on Public Works and Transportation, U.S. House of Representatives Legislation to Ban Smoking on Airline Aircraft*. 7 Oct. Bates No. TI12030338/12030342, accessed at <http://legacy.library.ucsf.edu/tid/dzk40c00>, 21 April 2005.

⁷³ *To Ban Smoking on Airline Aircraft*.

⁷⁴ Kane Parsons & Associates, *Health Care Issues* (American Medical Association, 1987).

⁷⁵ Sherry Milligan. American Association for Respiratory Care. 1987. *AARC Airline Smoking Survey. Airline Passengers Prefer Smoke Free Environment*. Sep. Bates No. TI07071333/07071342, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI07071333.html, 21 April 2005.

⁷⁶ American Association for Respiratory Care. 1989. *Public Attitudes About Smoking on Airlines. A Survey Conducted by the American Association for Respiratory Care*. 20 Jun. Bates No. 87649025/87649056, accessed at <http://legacy.library.ucsf.edu/tid/rgs21e00>, 25 April 2005.

⁷⁷ Tobacco Institute. 1989. *Public Opinion Poll About Smoking on Airlines Not Supported by Other Opinion Measures*. 20 Jun. Bates No. 2040852208, accessed at <http://legacy.library.ucsf.edu/tid/r1m52e00>, 25 April 2005.

⁷⁸ Tobacco Institute. 1989. *Public Affairs Management Plan Progress Report June 1989*. Jun. Bates No. TIMN0296697/0296730, accessed at <http://legacy.library.ucsf.edu/tid/fmp62f00>, 22 March 2005.

By 1989, the Tobacco Institute privately conceded that public opinion favored bans on airline smoking.⁷⁹ A May 1989 memo from John Lyons, leader of the Smokers' Rights Alliance, states:

There is \$50,000 in the airline budget for a public opinion survey in 1989. I do not anticipate conducting this survey. (Crafting useful questions would be extremely difficult, and other surveys in the last 12 months suggest we would not like the results).⁸⁰

In a July 1989 progress report on the airline smoking strategy, Lyons confirmed that public opinion research among voters in tobacco states would not be undertaken, owing to the apparent acceptance of the two-hour ban. He reported findings from a survey conducted by a Tennessee congressman in which 70 percent of constituents participating in the poll supported a total in-flight smoking ban.⁸¹ Publicly, however, the Tobacco Institute maintained that the general public did not support banning smoking on aircraft. In testimony before Congress in 1989, Tobacco Institute spokesman Charles Whitley repeated the industry's claim that the majority of Americans did not support the prohibition of smoking on aircraft.⁸²

Smokers' Rights and Other Front Groups

Committee for Airline Passengers' Rights. In response to Senate passage of an amendment banning smoking on flights of 90 minutes or less in late 1987, the tobacco industry formed the Committee for Airline Passengers' Rights, an organization "made up of smokers and tobacco industry personnel."⁸³ The group was first developed and deployed in New Jersey with the intention of influencing Senator Frank Lautenberg, a major proponent of the airline smoking ban.⁸⁴ David Goldfarb, executive director of the Tobacco Distributors

⁷⁹ John Lyons. 1989. *Economics of the Airline Smoking Ban*. 16 May. Bates No. TI17682612/17682613, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI17682612.html, 22 March 2005; John Lyons. 1989. *Airlines*. Jul. Bates No. TI01140253/01140282, accessed at <http://legacy.library.ucsf.edu/tid/ebp30c00>, 23 March 2005.

⁸⁰ Lyons. *Economics of the Airline Smoking Ban*.

⁸¹ Lyons. *Airlines*.

⁸² *To Ban Smoking on Airline Aircraft*.

⁸³ Sparber; Peter G. Sparber. 1987. *Progress on "Airline Passengers Rights" Organizations*. 20 Oct. Bates No. TI07670427, accessed at <http://legacy.library.ucsf.edu/tid/nwy30c00>, 10 December 2004; Peter G. Sparber. 1987. *Public Affairs Management Plan Progress Report November 1987*. Nov. Bates No. TIFL0536007/0536045, accessed at <http://legacy.library.ucsf.edu/tid/wpk02f00>, 10 March 2005; Anonymous, *Smoking Aboard Airlines: A Strategic Plan*.

⁸⁴ Samuel D. Chilcote. Tobacco Institute. 1987. *Importance of Impacting Senator Lautenberg on the Airline Issue*. 1 Dec. Bates No. TI11153152, accessed at <http://legacy.library.ucsf.edu/tid/wlh40c00>, 10 December 2004; Committee for Airline Passengers Rights. 1987. *No on Airline Smoking Bans Fact Sheet*. 20 Nov. Bates No. TI11153154/11153156, accessed at <http://legacy.library.ucsf.edu/tid/ulh40c00>, 10 March 2005.

Association of New Jersey, was appointed as the Committee's chairman.⁸⁵ The front group's main function was to mobilize individuals to write and express their views to Senator Lautenberg so that he would "know there is a strong group of New Jerseyans who disagree with his views on tobacco issues"⁸⁶ (see Figure 1). In this covert campaign, private citizens who received the group's "Fact Sheets" and letter-writing requests were unaware that there was no affiliation with an actual airline passengers' organization.

Smokers' Rights Alliance. The general consensus among the Tobacco Institute's airline working group in early 1988 was that mobilization of smokers was needed to exert pressure on policymakers and airlines to ensure sunset of the smoking ban.⁸⁷ A March 1988 memo summarizing the proposed airline strategy from the group's leader, John Lyons, to Tobacco Institute executive Peter Sparber stated:

Smokers are an unorganized political constituency, but unless there is an outcry among smokers, there will be no reason, no context, to repeal the ban or allow it to sunset.⁸⁸

To achieve this aim, the Tobacco Institute coordinated, publicized, and funded the media events and other public relations activities of Dave Brenton and the Smokers' Rights Alliance.⁸⁹ Based in Arizona,⁹⁰ with about 700 members,⁹¹ the group claimed to operate on membership dues and private donations, including "some in-kind assistance" from the Tobacco Institute.⁹² Brenton was available on a full-time basis for activities pertaining to the airline smoking issue and would receive \$5,000/month compensation.⁹³ In addition, the Tobacco Institute provided informational materials and funded various public

⁸⁵ Chilcote. *Importance of Impacting Senator Lautenberg.*

⁸⁶ Committee for Airline Passengers Rights. *No on Airline Smoking Bans Fact Sheet.*

⁸⁷ John Lyons. 1988. *Views of Prospective Members of the Airline Working Group.* 27 Jan. Bates No. TI01132303/01132310, accessed at http://tobaccodocuments.org/nysa_indexed/TI01132303.html, 15 March 2005; John Lyons. 1988. *Summary of the Proposed Airline Strategy.* 10 Mar. Bates No. TI07670369/07670370, accessed at <http://legacy.library.ucsf.edu/tid/ywy30c00>, 16 March 2005.

⁸⁸ Lyons. *Summary of the Proposed Airline Strategy.*

⁸⁹ Samuel D. Chilcote. 1988. 14 Apr. Bates No. TI11391376/11391379, accessed at <http://legacy.library.ucsf.edu/tid/tyi40c00>, 16 March 2005; Tobacco Institute. *Public Affairs Management Plan Progress Report.*

⁹⁰ David W. Brenton. 1988. *Tobacco Observer Volume 13, No. 1.* Mar. Bates No. TI07830356/07830359, accessed at <http://legacy.library.ucsf.edu/tid/iaz30c00>, 26 May 2005.

⁹¹ John Lyons. 1988. *Smokers Rights Alliances Airport Activities.* 23 May. Bates No. TI01571335/01571339, accessed at <http://legacy.library.ucsf.edu/tid/qpr30c00>, 16 March 2005.

⁹² Richard Durbin. *Christian Science Monitor.* 1989. *The Tobacco Industry's Smoke Screen.* 16 Aug. Bates No. TI01140241, accessed at <http://legacy.library.ucsf.edu/tid/lbp30c00>, 23 March 2005.

⁹³ William Kloeffer. Tobacco Institute. 1988. 16 Mar. Bates No. TI44811425/44811426, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI44811425.html, 16 March 2005.

relations activities budgeted at about \$80,000.⁹⁴ Included among Smokers' Rights Alliance activities were television and radio appearances, information booths, petition drives, and demonstrations at airports across the country. However, these demonstrations consisted of tobacco industry personnel picketing in the various locales rather than outraged smokers, as advertised.⁹⁵

The relationship between the tobacco industry and the Smokers' Rights Alliance was exposed in the Congressional Record and in the print media in 1989.⁹⁶ Funding of the group was suspended when the Tobacco Institute eliminated its airline smoking program in late 1989.⁹⁷

DISCUSSION AND IMPLICATIONS

This analysis of internal documents and public records demonstrates the tobacco industry's continued attempts to mislead policymakers regarding public support for airline smoking restrictions, and reviews the circumstances that led the industry to pursue this strategy. As hypothesized, this study shows that there are circumstances under which firms may present inaccurate information about constituent preferences. By implication, it also suggests what might lead organizations in similar situations to engage in comparable behavior. The findings further imply that this misrepresentation does not always lead to a long-term loss of organizational effectiveness.

Although the tobacco industry was ultimately unsuccessful in preventing a smoking ban on passenger aircraft, it managed to delay effective regulation for nearly two decades. Only a few of the industry's strategies to mislead policymakers were exposed, mostly near the end of the 20-year policy process (for example, letter-writing campaigns and the sponsorship of the Smokers' Rights Alliance). More importantly, the extent of industry grassroots mobilization efforts was never revealed. Tobacco industry research on docket contents during several regulatory proceedings demonstrated that in the absence of industry-driven letter-writing campaigns, the public strongly supported banning smoking on aircraft.

The tobacco industry's heavy reliance on its own employees to generate data supporting its position (for example, letter-writing campaigns, petition

⁹⁴ Cynthia Piattoni. Nelson, Ralston, and Robb Communications. 1988. *Smoker's Rights Alliance Budget Update*. 22 Jun. Bates No. TI01130417-TI01130425, accessed at http://tobaccodocuments.org/nysa_ti_m1/TI01130417.html, 10 March 2005.

⁹⁵ Lyons. *Smokers Rights Alliances Airport Activities*; Piattoni. *Smoker's Rights Alliance Budget Update*; Peter G. Sparber. 1988. 24 May. Bates No. TITX0030529, accessed at <http://legacy.library.ucsf.edu/tid/glv32f00>, 16 March 2005.

⁹⁶ Durbin. *The Tobacco Industry's Smoke Screen*; "The Tobacco Industry's Smoke Screen," *Congressional Record-Extension of Remarks* 135, no. 111 (1989).

⁹⁷ John Lyons. Tobacco Institute. 1989. 30 Nov. Bates No. TI01140044/0045, accessed at <http://legacy.library.ucsf.edu/tid/udq30c00>, 26 May 2005; Stuntz; John Lyons. Tobacco Institute. 1989. 13 Dec. Bates No. TI01140014, accessed at <http://legacy.library.ucsf.edu/tid/fep30c00>, 26 May 2005.

drives, and smokers' rights and other front groups) biases the representativeness of the public record. First, tobacco industry employees may have more favorable views about tobacco products than does the general population. Second, the tobacco industry's use of its employees is inherently coercive, as the employee's job security depends on the employer. Thus, some employees may have participated in activities that did not accurately reflect their views.

The behavior of the tobacco industry in fighting airline smoking restrictions calls into question prevailing theoretical assumptions about interest group behavior. Interest groups and lobbyists, in the circumstances we describe, may purposefully provide inaccurate information, despite the efforts of competing interest groups to forestall misrepresentation. Existing theories about lobbying behavior propose that an investment in acquiring costly information about constituent preferences and legislative policy outcomes, such as performing public opinion surveys, is a means of increasing organizational credibility. Investments in information gathering are perceived to differentiate groups that possess credible information from those that do not.⁹⁸ However, the fact that interest groups possess accurate information does not mean that they will reveal it. For example, the tobacco industry did not make public the results of its surveys that found support for airline smoking bans.

We proposed two conditions under which interest groups would misrepresent or withhold information: when the issue is perceived to be critical, and when accurate information does not support interest group preferences. Our research suggests that commitment to an extensive information-gathering and lobbying campaign should not be viewed as a signal that interest groups are presenting credible information.

Our findings have further implications for judging grassroots lobbying. Although Congress sought to increase disclosure of interest group lobbying through the Lobbying Disclosure Act of 1995, the law does not require groups that engage in activities meant to demonstrate grassroots support for legislation to register or report their funding sources.⁹⁹ This exclusion means that many efforts of the type used by the tobacco industry to influence policy, such as letter-writing campaigns and the formation of front groups, are still not reported. Although there is very limited research on these types of activities, other industries have used similar strategies.¹⁰⁰ Our results, which are con-

⁹⁸ Wright, *Interest Groups and Congress*, 92; Kollman, *Outside Lobbying*; Esterling, *The Political Economy of Expertise*; Potters and Van Winden, "Lobbying and Asymmetric Information," 285.

⁹⁹ Jeffrey Tenenbaum, *Lobbying Disclosure Act of 1995: A Summary and Overview for Associations* (Washington DC: Center for Association Leadership), accessed at <http://www.centeronline.org/knowledge/whitepaper.cfm?ID=1796>, 16 March 2005.

¹⁰⁰ Public Citizen, *Why the Lobbying Disclosure Act Needs to be Broadened to Include Grass-Roots Lobbying* (Washington DC: Public Citizen), accessed at http://www.citizen.org/print_article.cfm?ID=7861, 10 March 2005; Public Citizen, *Lobbying Disclosure Act Recommendations. Problems with and Recommended Changes to the Federal Lobbying Disclosure System* (Washington DC: Public Citizen), accessed at http://www.citizen.org/print_article.cfm?ID=6202, 16 March 2005; Arthur Mitchell,

sistent with game-theoretical literature on the incentives of firms,¹⁰¹ suggest that the 1995 Lobbying Disclosure Act should be modified to require that organizations engaging in grassroots lobbying disclose their funding sources and activities. Without such changes, interest groups may continue efforts to mislead legislators about the extent of constituent support.

Our research has certain limitations. Conclusions drawn using internal industry documents can be difficult to generalize, given that it is not always clear whether plans made by industry actors were, in fact, implemented. Also, the records are likely to be incomplete. To the extent possible, we sought to circumvent these problems by relying on multiple outside sources, including contemporaneous public records, press accounts, and other relevant research. Other strengths of our data sources include the stability and unobtrusive nature of the documents and other archival records.¹⁰² Although findings from a single case study can neither confirm nor disconfirm existing theory,¹⁰³ our results are consistent with theoretical work attempting to describe corporate lobbying incentives.¹⁰⁴ Given the very limited existing empirical work on lobbying activities,¹⁰⁵ this research enhances the understanding of interest groups as information providers during the legislative process. Whenever a policy proposal threatens a clearly defined interest group, particularly a corporate interest group, lobbying tactics may include the misrepresentation of information to policymakers.*

"Loophole Lets Lobbyists Hide Clients' Identity," *The New York Times*, 5 July 2002; Lyon and Maxwell, "Astroturf," 563.

¹⁰¹ Lyon and Maxwell, "Astroturf."

¹⁰² Robert K. Yin, *Case Study Research. Design and Methods*, 3rd ed., vol. 5, *Applied Social Research Methods Series* (Thousand Oaks, CA: Sage, 2003), 86; Stacy Carter, "Tobacco Document Research Reporting," *Tobacco Control* 14 (2006): 368–376.

¹⁰³ Gerring, "What is a Case Study,"

¹⁰⁴ Lyon and Maxwell, "Astroturf," 594.

¹⁰⁵ Potters and Van Winden, "Lobbying and Asymmetric Information," 284.

* We gratefully acknowledge Bonnie Glaser for her assistance in obtaining public documents from the National Archives and Records Administration. We also thank Elizabeth Boyd, Dan Cook, and Ann Keller for their insightful comments. This work was supported by the Flight Attendant Medical Research Institute.